

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

HUNTINGTON BEACH CITY SCHOOL
DISTRICT.

OAH CASE NO. 2014090818

ORDER GRANTING SECOND
REQUEST FOR CONTINUANCE AND
SETTING MEDIATION, PREHEARING
CONFERENCE AND DUE PROCESS
HEARING

On October 27, 2014, the parties jointly filed a second request to continue the dates in this matter. Student's complaint was filed on September 22, 2014, the initial hearing date was November 18, 2014, and a first continuance of all dates was granted by OAH on October 16, 2014. The parties allege that Parents are not available for the November 25, 2014 mediation set in the Order granting the first continuance, a date the parties selected. They seek a continuance of the mediation and hearing dates.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated. The second request extends the hearing to beyond ninety days of the original hearing date and the parties have not established why they are seeking a continuance of the hearing for an additional five weeks. OAH will grant the continuance, but does not contemplate granting any further continuances absent a showing of good cause.

This matter will be set as follows:

Mediation:	January 8, 2015 at 9:30 AM
Prehearing Conference:	February 13, 2015 at 10 AM
Due Process Hearing:	February 23, 2015 at 1:30 p.m., February 24 and 25, 2015 at 9:00 AM, unless otherwise ordered, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: October 28, 2014

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings